

REMARKS

Claims 1-27 are pending in the present application. Independent claims 1 and 17 have been amended. No new matter has been added. Support for the amendments may be found between line 14 on page 11 and line 8 on page 12 of the Patent Application and in Figure 3.

In the Office Action, claims 1-13 and 17-25 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Blackeney (U.S. Patent No. 5,267,261). Claims 14-15 and 26-27 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Blackeney. Claims 16 was rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Blackeney in view of Sekine (U.S. Patent Application Publication No. 2001/0024429). The Examiner's rejections are respectfully traversed.

Blackeney describes techniques for performing soft handovers between base stations in a cellular communication system. Mobile units in the communication system described by Blackeney monitor pilot signals transmitted by multiple base stations and, during a soft handover, communicate concurrently with more than one base station. See Blackeney, col. 3, ll. 1-66. The pilot signal transmitted by each base station allows the mobile stations to obtain initial system timing synchronization. See Blackeney, col. 6, ll. 12-13. Each base station also transmits a sync channel signal that is used by the mobile stations to acquire additional synchronization. See Blackeney, col. 6, ll. 35-40.

Blackeney is primarily concerned with transmitting voice signals, which are not significantly impacted by the lost data and/or dropped signals caused by mistiming between multiple base stations during soft handovers. See Patent Application, page 3, ll. 10-18. Thus, Blackeney is completely silent with regard to timing differences that exist between different base stations and that may result in lost data and/or dropped signals during soft handovers. See Patent

Application, page 3, ll. 1-8. Blackeney therefore fails to teach or suggest communicating with a first base station using signals synchronized with a first synchronizing signal and communicating concurrently with a plurality of base stations including the first base station using signals synchronized with the first synchronizing signal during a hand off period, as set forth in independent claims 1 and 17. To the contrary, as discussed above, Blackeney teaches that each base station transmits its own pilot signal and synch channel during soft handover.

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not anticipated by Blackeney and request that the Examiner's rejections of claims 1-13 and 17-25 under 35 U.S.C. § 102(b) be withdrawn.

Moreover, it is respectfully submitted that the pending claims are not obvious in view of Blackeney and Sekine, either alone or in combination. To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). As discussed above, Blackeney fails to teach or suggest communicating with a first base station using signals synchronized with a first synchronizing signal and communicating concurrently with a plurality of base stations including the first base station using signals synchronized with the first synchronizing signal during a hand off period, as set forth in independent claims 1 and 17. The examiner relies upon Sekine to describe storing a phase difference offset in memory. However, Sekine fails to remedy the fundamental deficiencies of Blackeney. Applicants therefore submit that the prior art of record fails to teach or suggest all the limitations of the claimed invention.

Applicants also submit that the cited references fail to provide any suggestion or motivation to modify the prior art to arrive at the claimed invention. To the contrary, Blackeney teaches away from the claimed invention. In particular, Blackeney teaches that each base station

transmits its own pilot signal and synch channel during soft handover, which teaches away from communicating with multiple base stations using a single synchronization signal, as set forth in independent claims 1 and 17. It is by now well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious. *See, inter alia, In re Fine*, 5 U.S.P.Q.2d (BNA) 1596, 1599 (Fed. Cir. 1988); *In re Nielson*, 2 U.S.P.Q.2d (BNA) 1525, 1528 (Fed. Cir. 1987); *In re Hedges*, 228 U.S.P.Q. (BNA) 685, 687 (Fed. Cir. 1986).

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not obvious over the prior art of record and request that the Examiner's rejections of claims 14-16 and 25-27 under 35 U.S.C. § 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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